Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
2018 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	))))	MB Docket No. 18-349

COMMENTS OF NEXSTAR BROADCASTING, INC.

Nexstar Broadcasting, Inc. ("Nexstar"), the licensee of 138 full-power television stations in 100 designated market areas ("DMAs"), respectfully submits these comments in response to the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking in the above-captioned proceeding.[1]

The Commission is statutorily required to review its broadcast ownership rules every four years to determine whether these rules remain "necessary in the public interest as the result of competition" and to "repeal or modify any regulation it determines to be no longer in the public interest."[2] The NPRM initiates the 2018 Quadrennial Review and is seeking comment on the retention, modification or elimination of the Local Radio Ownership Rule,[3] the Local Television

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[1] *2018 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al.*, FCC 18-179, MB Docket No. 18-349 (rel. Dec. 13, 2018) ("*NPRM*").

[2] *See* Telecommunications Act of 1996, Pub. L. No. 104- 104, § 202(h), 110 Stat. 56, I 11-12 {1996) {"1996 Act"); Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, § 629, 118 Stat. 3, 99-100 (2004). This review entails the Commission first determining whether competitive changes in the media marketplace have obviated the public necessity for its ownership rules and, if so, repealing or modifying the outdated regulation. *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004).

[3] 47 C.F.R. § 73.3555(a).

Ownership Rule,[4] the Dual Network Rule,[5] and certain diversity ownership proposals. Nexstar, as a consistent participant in the Commission's quadrennial regulatory review proceedings, incorporates by reference its prior comments, reply comments and *ex parte* submissions, and reaffirms its position that it is no longer in the public interest for the Commission to retain the Local Television Ownership Rule, and more specifically, that the Commission should eliminate the Top Four Prohibition.[6]

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[4] 47 C.F.R. § 73.3555(b). The Local Television Ownership Rule permits an entity to own up to two television stations in the same DMA if: (1) the digital noise limited service contours (NLSCs) of the stations (as determined by Section 73.622(e) of the Commission's rules) do not overlap; or (2) at the time the application to acquire or construct the station(s) is filed, at least one of the stations is not ranked among the top four stations in the DMA, based on the most recent all-day (9 a.m.-midnight) audience share, as measured by Nielsen Media Research or by any comparable professional, accepted audience ratings service ("Top Four Prohibition").

[5] 47 C.F.R. § 73.658(g).

[6] *See e.g., Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996,* MB Docket No. 02-277 et al., Comments of Nexstar Broadcasting Group, L.L.C. and Quorum Broadcast Holdings, LLC submitted Jan. 2, 2003; *Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996,* MB Docket No. 02-277 et al., Reply Comments of Nexstar Broadcasting Group, L.L.C. and Quorum Broadcast Holdings, LLC submitted Feb. 3, 2003; *Rules and Policies Concerning Attribution of Joint Sales Agreements in Local Television Markets*, MB Docket 04-256, Comments of Nexstar Broadcasting, Inc. submitted Oct. 27, 2004; *2006 Quadrennial Regulatory Review*, MB Docket No. 06-121 et al., Comments of Nexstar Broadcasting, Inc. submitted Oct. 23, 2006; *2006 Quadrennial Regulatory Review*, MB Docket No. 06-121 et al., Reply Comments of Nexstar Broadcasting, Inc. submitted Jan. 16, 2007; *Future of Media and Information Needs of Communities in a Digital Age*, GN Docket No. 10-25, Comments of Nexstar Broadcasting, Inc. submitted May 7, 2010; *2010 Quadrennial Regulatory Review*, MB Docket 09-182 (NOI), Comments of Nexstar Broadcasting, Inc. submitted July 12, 2010; *2010 Quadrennial Regulatory Review*, MB Docket 09-182 (NOI), Reply Comments of Nexstar Broadcasting, Inc. submitted July 26, 2010; *2010 Quadrennial Regulatory Review*, MB Docket 09-182 and *Promoting Diversity of Ownership*, MB Docket 07-294, Comments of Nexstar Broadcasting, Inc. submitted Mar. 5, 2012; *2010 Quadrennial Regulatory Review*, MB Docket 09-182 and *Promoting Diversity of Ownership*, MB Docket 07-294, Reply Comments of Nexstar Broadcasting, Inc. submitted Apr. 17, 2012; *2010 Quadrennial Regulatory Review*, MB Docket 09-182, Notice of Ex Parte Communications submitted on Jan. 16, 2013 by Wiley Rein LLP on behalf of Nexstar Broadcasting, Inc. and Mission Broadcasting, Inc.; *2010 Quadrennial Regulatory Review*, MB Docket 09-182, Written Ex Parte Presentation submitted on Jan. 24, 2013 by Nexstar Broadcasting, Inc.; *2010 Quadrennial Regulatory Review*, MB Docket 09-182, Written Ex Parte Presentation submitted on Feb. 20, 2014; *2010 Quadrennial Regulatory Review*, MB Dockets 10-71, 09-182, 07-284, 04-256 Written Ex Parte Presentation submitted on March 10, 2014; *2014 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 2020 of the Telecommunications Act of 1996 et al.*, Comments of Nexstar Broadcasting, Inc. submitted Aug. 6, 2014; *2014 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 2020 of the Telecommunications Act of 1996 et al.*, Petition for Reconsideration of Nexstar Broadcasting, Inc. submitted Dec. 1, 2016.

I. INTRODUCTION

As the Commission has acknowledged, "the media marketplace has seen dramatic changes since the Commission first began conducting its periodic media ownership reviews in the late 1990s – an evolution that continues to this day."[7] U.S. media consumers have witnessed, and contributed to, the significant decline of newspapers[8] and the relegation of radio to primarily an in-car experience.[9] Simultaneously, network television programming has expanded beyond the three major television networks to a plethora of options ranging from additional broad entertainment options to networks specializing in everything from old western television shows and movies to comedy programming (and everything in between). Multichannel video programming distributors ("MVPDs") now own advanced digital distribution platforms that provide hundreds, if not thousands, of channels of video programming. Virtual MVPDs have proliferated. Direct to consumer video distribution (such as CBS All Access, WB Movie All Access, HBO GO, with other networks, as well as Disney and WarnerMedia, to shortly launch their products) is increasingly available. Facebook, Amazon and Apple have entered the video streaming industry. And, Google not only provides hundreds of thousands of video user generated video channels, but has also launched its own "television" streaming services and, of course,

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[7] *NPRM* at ¶ 2.

[8] Weekly print newspaper subscription peaked in 1984 with approximately 63.3M total circulation and declined to less than 30.9M in 2017; and newspaper advertising revenue peaked in 2006 ($49.2B) and declined to $16.5B by 2017. *Pew Research Center Newspapers Fact Sheet*, State of the News Media, June 13, 2018, https://www.journalism.org/fact-sheet/newspapers/ (last visited on Apr. 26, 2019). *See also, The Expanding News Desert*, *infra* fn. 19.

[9] *The Rapidly Changing Face of Radio Listening*, Fred Jacobs, May 15, 2018, https://jacobsmedia.com/rapidly-changing-face-radio-listening/ (last visited Apr. 26, 2019).

continues to earn robust revenues from its online advertising.[10] Each and every one of these networks, programming channels, and alternative video distribution platforms has come together to provide all advertisers, including local advertisers, with a myriad and infinite opportunity to reach their target audiences. Indeed, the media landscape has been completely transformed by the digital revolution.[11]

Although this multitude of video programming may appear to be a national phenomenon, it is very much felt at the local level. A local viewer can find news and information from sources ranging from Facebook and Twitter, to cable news programming channels, to hundreds (if not thousands) of online news sites, including newspapers that have moved online. A broadcaster's local programming is just a small drop in a large, competitive ocean.

This creation and adoption of a wide variety of information sources, media products and news services is plainly evident when reviewing the shift of media consumption in the United States. Today, nearly as many Americans - thirty-seven percent – prefer to get their news online as through a television set (forty-one percent), a significant and growing percentage.[12] Viewership of evening newscasts is declining and aging rapidly, and the number of people who rely on television for the local news has declined significantly.[13] Moreover, the ownership proceeding

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[10] *Google's Q4 ad revenue rises 20% as its pricing power erodes*, Robert Williams, Feb. 5, 2019, https://www.mobilemarketer.com/news/googles-q4-ad-revenue-rises-20-as-its-pricing-power-erodes/547666/ (last visited Apr. 26, 2019) ("*Google Revenues*").

[11] *See* Chairman Pai Remarks at the National Association of Broadcasters Show, Apr. 9, 2019, https://www.fcc.gov/document/chairman-pai-remarks-national-association-broadcasters-show (last visited Apr. 26, 2019) ("*Pai Remarks*").

[12] *See For Local news, Americans Embrace Digital but Still Want a Strong Community Connection*, Pew Research Center, Mar. 26, 2019, https://www.journalism.org/2019/03/26/for-local-news-americans-embrace-digital-but-still-want-strong-community-connection/ (last visited Apr. 26, 2019).

[13] *See Fewer Americans rely on TV news; what type they watch varies by who they are*, Katerina Eva Matsa, Pew Research Center, Jan. 5, 2018, https://www.pewresearch.org/fact-tank/2018/01/05/fewer-americans-rely-on-tv-news-what-type-they-watch-varies-by-who-they-are/ (last visited Apr. 26, 2019).

record is teeming with examples where, over the last two decades, the Commission recognized but refused to embrace the dynamic nature of the media industry and the arrival of new media providers/competitors.

It is only recently that the Commission has taken small steps – with the elimination of the newspaper/broadcast cross ownership rule and eight voice test – in acknowledging the monumental industry changes that have occurred and continue to occur within the media industry and the public's shift in consumption of all types of programming.[14] Nexstar urges the Commission to take the next steps necessary to ensure the long-term survivability of local television programming and eliminate the detrimental Local Television Ownership Rule, and specifically the Top Four Prohibition. Shedding additional, outdated policies will have a direct positive impact on the broadcast industry and tangentially on the public interest. It is time for the Commission to take the next step and move forward from its provincial views that (i) television broadcasters compete only with themselves and (ii) local programming will suffer if two big four stations are permitted to be commonly owned.

II. IT IS LONG PAST TIME FOR THE COMMISSION TO ACKNOWEDGE ALL OF THE COMPETITION IN THE ADVERTISING AND VIDEO MARKETPLACES.

In the 2010/2014 Quadrennial Review Recon Order, the Commission determined that the Local Television Ownership Rule is "a rule focused on preserving competition among local broadcast television stations [and is] still warranted" to promote competition among broadcast

[14] See *2014 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al.*, Order on Reconsideration and Notice of Proposed Rulemaking, 32 FCC Rcd 9802 (2017) ("*2010/2014 Quadrennial Review Recon Order*"). The Commission also adopted a case-by-case examination for waivers of the Top Four Prohibition that focuses predominantly on television station competition within a market. Like the rule itself, this proposed waiver process ignores market realities.

stations in local markets.[15] The Commission stated its belief that such competition leads stations to invest in better and more locally tailored programming and to compete for advertising revenue and retransmission consent fees. The Commission misunderstands both the marketplace and what incentivizes broadcasters to produce quality local programming.[16]

Competition is defined as the act or process of competing – such as the effort of two or more parties acting independently to secure the business of a third party by offering the most favorable terms.[17] The key factor in competition is two or more parties – not solely two or more broadcasters, but two or more companies of any sort – trying to secure the same advertising dollars from the same businesses. Advertisers do not have separate "buckets" of advertising dollars for each category of potential advertising sources (e.g., TV, cable, radio, etc.); rather, advertisers have one bucket of dollars that they use to reach the target audiences they desire to reach at the best prices. Therefore, the question is not with whom do local television stations compete against in providing local news content, but rather with whom do local television stations compete in selling advertising – the very advertising that underlies the revenues that support the production of local

[15] *2010/2014 Quadrennial Review Recon Order*, 32 FCC Rcd at p. 9833. As far back as 2002, the Commission has accepted that the Local Television Ownership Rule is not necessary to preserve diversity and localism. *2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 13620, ¶¶ 169, 179 (2003) (subsequent history omitted). There have been no changes in the television or media marketplaces that warrant the Commission reversing that decision.

[16] The Commission also misapprehends the retransmission consent marketplace in asking if common ownership of top four stations in the same market provides broadcasters with undue bargaining leverage if such commonly owned stations are able to negotiate fees jointly. *NPRM* at ¶ 60. Preliminarily, Nexstar notes that the question is laughable since these allegations have come from some MVPDs with their own substantial bargaining power. In addition, as Nexstar has explained to the Commission elsewhere, it does not (and it is not aware of any other broadcaster who) negotiate(s) higher top four fees in markets where it holds two top four network affiliations. Rather, Nexstar establishes a single top four rate for every top four station that Nexstar owns, regardless of how many top four affiliations it holds in any market. Nexstar further believes that any action to prohibit commonly owned stations from being negotiated jointly is counter to Congress's intent and would create nightmare negotiations for all parties to such negotiations. Finally, matters surrounding retransmission consent negotiations are being addressed in separate proceedings.

[17] *See* https://www.merriam-webster.com/dictionary/competition (last visited on Apr. 26, 2019).

news in their communities.[18] The Commission's Local Television Ownership Rule ignores this basic premise and, by this regulation, manipulates the pool of competitors to force a result where all competitors sell the same identical product (on-air advertising), rather than accepting the advertising market as a whole.

Below is a snapshot of with whom local broadcasters have been and are competing:

<u>Share of Total Advertising Market</u>[19]

	2016	2017	2018	2019
Direct Mail	27.0%	26.9%	25.6%	24.9%
Online, Mobile, Email	21.0%	24.8%	27.8%	30.3%
Television OTA & Online	13.9%	12.8%	13.1%	12.5%
Radio OTA & Online	10.5%	10.5%	10.1%	9.8%
Newspaper Print & Online	12.2%	11.0%	10.1%	9.6%
Out-of-Home	5.9%	5.9%	5.8%	5.8%
Cable TV	5.0%	4.2%	4.3%	3.9%
Yellow Pages, Print & Online	2.9%	2.4%	2.0%	1.8%
Magazines Print & Online	1.5%	1.5%	1.4%	1.3%

Cable interconnects – which sell spots to local advertisers for insertion into cable network programs – offer advertisers the ability to reach targeted audiences or very broad audiences, and in larger DMAs the ability to segment their reach to specific geographic zones. For example, if an advertiser wants to reach only those who watch the news, they can buy CNN, Fox News, and

[18] In her statement on the NPRM, Commissioner Rosenworcel laments the stark decline of local news in rural areas (citing to a University of North Carolina's School of Journalism report focused on the loss of our country's *newspapers* (*The Expanding News Desert*, Penelope Muse Abernathy, Knight Chair in Journalism and Digital Media Economics, UNC School of Media and Journalism, Center for Innovation and Sustainability in Local Media, https://www.usnewsdeserts.com/reports/expanding-news-desert/ (last visited Apr. 26, 2019) ("*The Expanding News Desert*")). Now is the time for the Commission to eliminate regulations that prevent television broadcasters from effectively competing against large, integrated, multi-platform video companies that do not provide any local content to serve the local viewer – otherwise Commissioner Rosenworcel soon will be left to lament the creation of *television* news deserts.

[19] BIA Advisory Services Comprehensive Nationwide Forecast for Local Media Advertising, BIA 2019. *See* Exhibit A attached hereto.

MSNBC. If they want to reach females they can buy any or all of HGTV, Food Network, A&E, Bravo and/or E! (among others). If they want to reach a large, diverse viewership, they can buy TNT, USA, TBS and Discovery. Advertisers and viewers agree cable and broadcast television have morphed into one fungible market.[20]

Local advertising also is showing up as pre-roll on the vast majority (if not all) digital video platforms.[21] Google alone earned more in advertising revenues in 2018 than the entire television broadcast industry combined.[22] And, Nexstar's advertisers are requesting dubs of their commercials to run on Facebook Live. The disparity between digital advertising (e.g. online, mobile and email) and all other forms of advertising is predicted to continue to widen, and it is myopic of the Commission to think otherwise. Indeed, the Commission's own contributions (via spectrum reallocations and new service authorizations) to the dynamism of the advertising marketplace ensures the digital advertising marketplace will continue to expand with services that are now and/or will be competing with local broadcasters for advertising dollars.

[20] The special interest group commenters have long objected to any consolidation of ownership among broadcast television station ownership because of the "unique" nature of free over-the-air broadcast stations. The only thing that distinguishes television broadcasters from other video content providers is their local programming. As set forth in Section III below, it is not who owns a station that drives high quality local programming; it is competition for viewers and advertising revenues. If the special interest groups want to preserve the broadcast station uniqueness, they should embrace functional regulation changes designed to preserve that uniqueness.

[21] Roku's Q4 Shareholder letter states that its platform revenue increased 85% YoY and its monetized video ad impressions more than doubled in 2018. Roku Shareholder Letter, Feb. 21, 2019, https://ir.roku.com/static-files/17e903b6-d3fa-4b85-bf64-a1ef178239a0 (last visited Apr. 26, 2019).

[22] Google earned $116.3 billion in advertising revenues in 2018. *See* Alphabet Inc. Form 10-K for fiscal year ended Dec. 31, 2018, p. 27, https://www.sec.gov/Archives/edgar/data/1652044/000165204419000004/goog10-kq42018.htm. In contrast BIA Advisory Services predicted broadcasters would earn just $19.3 billion in over-the-air advertising and digital revenues in 2018 (with total revenues including retransmission consent only $27.7 billion). *BIA: 2018 TV Station Revenue To Reach $27.68B*, TVTechnology, Claudia Kienzle, Apr. 30, 2018, https://www.tvtechnology.com/news/bia-2018-tv-station-revenue-to-reach-27-68b (last visited Apr. 26, 2019).

Similarly, the video marketplace has expanded dramatically and well beyond just the local broadcast stations serving a market. Not only are broadcasters themselves providing more video choices through their secondary channels, there are hundreds (or more) cable television channels. And there can be no argument that major digital media players are providing extensive online programming, including original productions. These companies have a domestic audience shares in the millions. For example, Hulu has 8 million subscribers and Netflix has 60 million.[23] YouTube has approximately 2 billion monthly, and 30 million daily, users worldwide.[24] Netflix invested $12 billion dollars in original content in 2018 and is projected to spend $15 billion and $17.8 billion in 2019 and 2020, respectively.[25] As the recently announced partnership between YouTube and Verizon illustrates, broadcasters are competing in a war for viewer attention with well-funded media giants, Internet companies and telecom companies for video viewership market share. [26]

Accordingly, it is time for the Commission to stop using the Local Television Ownership Rule to artificially limit the definition of the marketplace (whether for advertising or viewership) to only television broadcasters. A station to station only comparison of the marketplace results in a disservice to the public interest by limiting a broadcaster's ability to achieve the economies of scale which underpins the expansion and/or improvement of local programming.

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[23] *See Hulu Tops 25 Million Total Subscribers in 2018*, Hulu Press Releases, Jan. 8, 2019, https://www.hulu.com/press/hulu-tops-25-million-total-subscribers-in-2018/ (last visited Apr. 26, 2019); *Netflix added record number of subscribers, but warns of tougher times ahead,* CNN Business, Frank Pallotta, Apr. 17, 2019, https://www.cnn.com/2019/04/16/media/netflix-earnings-2019-first-quarter/index.html (last visited Apr. 26, 2019).

[24] *See YouTube by the Numbers: Stats, Demographics & Fun Facts*, Omnicore, Jan. 6, 2019, https://www.omnicoreagency.com/youtube-statistics/ (last visited Apr. 26, 2019).

[25] *See Netflix Spent $12 Billion on Content in 2018. Analysts Expect that to Grow to $15 Billion This Year*, Variety, Tom Spangler, Jan. 18, 2019, https://variety.com/2019/digital/news/netflix-content-spending-2019-15-billion-1203112090/ (last visited Apr. 26, 2019).

[26] *See YouTube TV and Verizon Form Cross-Platform Distribution Partnership*, Deadline, Dade Hayes, Apr. 23, 2019, *https://deadline.com/2019/04/youtube-tv-and-verizon-form-cross-platform-distribution-partnership-1202600366/* (last visited Apr. 26, 2019).

III. THE TOP FOUR PROHIBITION DOES NOT CREATE HIGH QUALITY LOCAL PROGRAMMING, COMPETITION DOES.

The Commission has long used the Local Television Ownership Rule to support its policies of programming diversity and localism, assuming that consolidation among the top four network competitors in any market will lead to less diverse and/or less high-quality programming. This premise relies on the false equivalencies that market share correlates to station's incentive to compete, and co-owned top four stations will suddenly stop seeking to maximize profits through high quality local programming. To put it bluntly, this Commission hypothesis completely ignores the basic premise that advertisers are not looking for programming, they are looking for viewer eyeballs at the lowest cost with the highest return on investment and, therefore, broadcasters must produce the most compelling, high quality local programming to retain and increase its share of viewers and, therefore, revenues.

As detailed above, broadcasters are continuously competing for audience share in their markets – not just among themselves, but with everyone, including Google and Facebook, Amazon and Netflix, Hulu and YouTube, MSNBC.com and CNN.com, local radio stations and local newspapers (where they remain), and every other form of information and entertainment available online and offline. This is because higher audience share means higher advertising rates and increased revenues. Without audience share there is limited advertising revenue, which negatively impacts operations and programming, and further reduce revenues.[27] Accordingly, broadcasters are hyper-focused on producing and distributing new local programming in order increase audience share and thereby increase revenues. The Commission's underlying premise that a

[27] *See e.g.*, *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Seventeenth Report, DA 16-510, MB Docket 15-158, ¶ 118, rel. May 6, 2016 ("because stations remain dependent on advertising revenues, when they decline, aside from laying off employees and reducing sales commissions, stations usually are unable to reduce expenses, and thus profits can decline sharply.").

broadcaster who owns two top four stations would homogenize two local programming segments for broadcast on both stations or provide less local programming overall represents nothing less than revenue suicide.

If a single broadcast entity were permitted to acquire two of the top four stations in the market, each with an existing distinct and separate audience share, such broadcaster would have no incentive to duplicate the local programming across both stations at the cost of alienating the existing audiences of both stations. This basic principle is similar to that illustrated in the auto industry. For example, Volkswagen owns Audi and Porsche. Both brands are comparable in content/build and price point. The distinction is in each product's perception, style and options. If Volkswagen elected to homogenize both brands into one line, it would face a loss of market share because it would only have one product in the market to compete against other luxury brand vehicles. Similarly, if a broadcaster produced coordinated and/or identical newscasts for its stations (whether top four or otherwise) that would be counterproductive to its goal of attaining the highest viewership of local news for the stations' collectively in order to maximize the revenues it earns from the sale of advertising time for its news.

Furthermore, network viewership – which is the primary underlying factor of a station's ranking among the top four stations – has absolutely nothing to do with localism and local programming. Indeed, the obvious distinction between the top four networks is different network programming. And, common ownership of two competing stations, each with a separate big four network, does not affect competition between network programming because such competition occurs at a national level, outside the local broadcaster's discretion, regardless of whether the stations are in the same market.[28]

Big four network programming is anywhere from approximately 20-60 percent of a station's weekly programming time, depending on network. The remaining periods are filled with syndicated programming and local programming, including news. Television broadcasters earn the vast percentage of their advertising revenues from local news programming.[29] Therefore, television broadcasters must constantly compete to keep and expand their audience share through the local programming they provide to their communities if they want to enhance their revenues.

In addition, audiences must relate to and trust their local broadcasters in order to maintain viewer loyalty.[30] Therefore, local broadcasters strive to positively affect their communities through the production of good relevant local programming, using its local programming to rally the community during severe situations, natural disasters, and manmade tragedies as well as for community celebrations and charity events large and small. With each newscast and each local program, broadcasters refresh their relationship with their community. Localism is continual connection with, and a positive impact to, a broadcaster's community. Through their local programming efforts, broadcasters establish a unique relationship with their audience. This does not change if a broadcaster owns more than one station in a market.

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[28] The networks program and counterprogram aggressively against each other in order to obtain the highest network ratings and, therefore, earn the highest revenues from their advertisers.

[29] The networks retain the vast majority of advertising time available in network programming. Although syndicated programming is paid for either with cash or barter, the advertising pricing for syndicated programming is not nearly as robust as the pricing in local news.

[30] *See For Local News, Americans Embrace Digital but Still Want Strong Community Connection*, Pew Research Center, Mar. 26, 2019, https://www.journalism.org/2019/03/26/for-local-news-americans-embrace-digital-but-still-want-strong-community-connection/ (last visited on Apr. 18, 2019).

Moreover, television broadcasters are incentivized to improve and increase local programming in order to garner larger audience shares and the consequent ability to increase advertising rates. For local broadcasters it is local news and information programming that generates higher ratings among attractive demographic profiles and enhances audience loyalty, which in turn results in higher ratings for programs both preceding and following the news. And high ratings and strong community identity make the stations more attractive to local advertisers. All of which serves to increase a station's revenues. This remains true regardless of the network(s) with which a station is affiliated. That is, every television station must put its best programming forward to capture and engage viewers, otherwise the station will not achieve the highest possible revenues from its operations.

However, when it comes to local programming, broadcasters are challenged with the fact that local programming, and more specifically local news programming, is typically one of the largest operational costs the stations.[31] The Local Television Ownership Rule negatively impacts a station's ability to produce news and other local programming by limiting the funds available for news production. The rule's impact is particularly acute in small and medium markets where the total amount of available market revenue is simply insufficient for four, or even three, separately owned television stations to invest the substantial outlay required to undertake a local news operation.[32] Common ownership and operation of two television stations in the same market include not only the obvious efficiencies of co-location and sharing of studio and office facilities, sharing of local management, administrative and technical staff, and efficiencies in advertising, sales and newsgathering, but also less obvious efficiencies such as reduced corporate overhead,

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[31] *2010/2014 Quadrennial Review Recon Order*, 32 FCC Rcd at p. 9836.

[32] *See e.g.*, *Gray Blames Feds For Local News Cuts In Casper*, Harry A. Jessell, TVNewscheck, Jan. 23, 2019, https://tvnewscheck.com/article/229026/gray-blames-feds-local-news-cuts-casper/ (last visited Apr. 26, 2019).

cost of money efficiencies from having one loan instead of two, and less consulting expenses. In addition, being able to purchase programming for two stations in a market allows a broadcaster to achieve a better purchase price, with the savings available to fund the stations' local operations. In prior quadrennial reviews, Nexstar has highlighted the benefits of duopoly ownership have provided to its Champaign and Little Rock markets, which include more local news, more local sports programming and greater community involvement.

It is past time for the Commission accept that it is not network affiliation that drives television broadcasters to create high quality local programming. Rather, it is their desire to provide the most compelling programming to their communities, in order to enhance their own revenues. It is time for the Commission to change the Local Television Ownership Rule to allow broadcasters to compete more effectively and efficiently with other media in order to maintain and promote an environment in which local broadcasters are able to continue to provide their core services of informing and alerting their local communities.

IV. CONCLUSION

Advertisers and video consumers are being presented with a barrage of options in the video content space. For local stations to continue to play their unique and vital role in today's media environment, it is critical that the Commission act now to permit television broadcasters to compete effectively and efficiently with all other participants in the media marketplace. Eliminating the Top Four Prohibition will allow broadcasters to obtain efficiencies through economies of scale, thereby increasing a broadcaster's ability to reinvest in better or additional local programming, including news, while maintaining competition within their market. Accordingly, the Commission should determine that it is no longer in the public interest to retain the Local Television Ownership Rule, and more specifically, eliminate the Top Four Prohibition.

Respectfully submitted,

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EXHIBIT A

(attached)

Nationwide Market Overview

Annual Revenue ($Millions) by Media
2016-2022 TV Market

	2016	2017	2018	2019	2020	2021	2022
Direct Mail	37,579.7	37,546.4	37,297.5	37,051.6	36,832.5	36,659.3	36,520.2
Television OTA	18,404.2	16,940.1	17,865.0	17,253.2	18,533.2	17,471.5	18,242.2
Online	15,562.1	16,817.1	18,573.3	20,434.9	22,289.1	24,207.0	26,232.3
Mobile	10,889.4	14,774.4	18,309.9	20,713.0	23,015.8	24,972.7	26,190.6
Radio OTA	13,476.4	13,476.6	13,195.1	12,941.3	12,918.6	12,811.5	12,719.4
Newspaper Print	13,199.7	11,323.8	10,306.8	9,451.2	8,687.7	8,002.5	7,383.8
Out-Of-Home	8,142.6	8,181.0	8,419.6	8,653.3	8,869.0	9,125.8	9,363.3
Cable TV	6,924.9	5,871.9	6,191.9	5,831.6	6,301.3	5,765.6	6,056.4
Newspaper Online	3,756.9	4,095.0	4,422.6	4,732.2	5,039.8	5,342.2	5,636.0
Email	2,719.6	3,083.9	3,492.2	3,926.0	4,330.1	4,686.0	5,057.3
Internet YP	1,766.8	1,673.5	1,581.0	1,658.0	1,779.6	1,921.7	2,088.9
Print YP	2,275.5	1,733.6	1,338.0	1,044.8	827.4	660.2	530.2
Television Online	1,005.7	1,014.6	1,174.0	1,336.7	1,501.0	1,671.6	1,850.8
Magazines Print	1,669.1	1,478.8	1,389.2	1,314.6	1,252.9	1,199.7	1,154.1
Radio Online	1,174.8	1,302.1	1,441.5	1,580.0	1,719.4	1,855.7	1,990.3
Magazines Online	486.5	524.7	570.9	628.7	695.0	768.4	849.2
TOTAL	**139,033.8**	**139,837.5**	**145,568.6**	**148,551.1**	**154,592.3**	**157,121.3**	**161,865.0**

Share of Market Total
2016-2022 TV Market

	2016	2017	2018	2019	2020	2021	2022
Direct Mail	27.0%	26.9%	25.6%	24.9%	23.8%	23.3%	22.6%
Television OTA	13.2%	12.1%	12.3%	11.6%	12.0%	11.1%	11.3%
Online	11.2%	12.0%	12.8%	13.8%	14.4%	15.4%	16.2%
Mobile	7.8%	10.6%	12.6%	13.9%	14.9%	15.9%	16.2%
Radio OTA	9.7%	9.6%	9.1%	8.7%	8.4%	8.2%	7.9%
Newspaper Print	9.5%	8.1%	7.1%	6.4%	5.6%	5.1%	4.6%
Out-Of-Home	5.9%	5.9%	5.8%	5.8%	5.7%	5.8%	5.8%
Cable TV	5.0%	4.2%	4.3%	3.9%	4.1%	3.7%	3.7%
Newspaper Online	2.7%	2.9%	3.0%	3.2%	3.3%	3.4%	3.5%
Email	2.0%	2.2%	2.4%	2.6%	2.8%	3.0%	3.1%
Internet YP	1.3%	1.2%	1.1%	1.1%	1.2%	1.2%	1.3%
Print YP	1.6%	1.2%	0.9%	0.7%	0.5%	0.4%	0.3%
Television Online	0.7%	0.7%	0.8%	0.9%	1.0%	1.1%	1.1%
Magazines Print	1.2%	1.1%	1.0%	0.9%	0.8%	0.8%	0.7%
Radio Online	0.8%	0.9%	1.0%	1.1%	1.1%	1.2%	1.2%
Magazines Online	0.3%	0.4%	0.4%	0.4%	0.4%	0.5%	0.5%
TOTAL	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**